



06 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of :
RAPPUOLI et al. :
Application No.: 10/527,672 : DECISION ON REQUEST
PCT No.: PCT/US03/29167 :
Int. Filing Date: 15 September 2003 :
Priority Date: 13 September 2002 :
Attorney Docket No.: 002441.00121 :
For: GROUP B STREPTOCOCCUS VACCINE :

This decision is issued in response to applicants' "Response to Notification of Defective Response; Correction of Inventorship under 37 CFR 1.497(d)" filed 27 July 2006 to correct the inventorship of the present national stage application.

BACKGROUND

On 15 September 2003, applicants filed international application PCT/US03/29167 which claimed a priority date of 13 September 2002. The published international application identified Rino Rappuoli as the sole applicant/inventor for the United States. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 13 March 2005.

On 11 March 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and a preliminary amendment.

On 14 September 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 18 April 2006, applicants filed a declaration executed by: Rino Rappuoli; John Telford; and Guido Grandi.

On 28 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the second and third inventors were not identified on the international application.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors John Telford and Guido Grandi to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17; and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
- (4) any new oath or declaration required by paragraph (f) of this subsection.

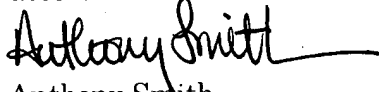
Items (1); (2); (3); and (4) have been satisfied.

CONCLUSION

The request under 37 CFR 1.497(d) is GRANTED.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 15 September 2003 and a date of **18 April 2006** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459